

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A 36-PARCEL VESTING TENTATIVE MAP FOR A 66.49-ACRE SITE LOCATED AT THE NORTHEAST QUADRANT OF COCHRANE ROAD AND HIGHWAY 101 (APNs 728-37-001, -002, -004, -005 & -007)

WHEREAS, such request was considered by the City Council at their regular meeting of November 16, 2005, at which time the City Council approved subdivision application, SD-05-05: Cochrane – DiNapoli/Browman; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved project is consistent with the Zoning Ordinance and the General Plan as amended by applications ZA-04-12 and GPA-04-12.

SECTION 2. An Environmental Impact Report has been prepared for this project as part of the following applications: General Plan Amendment, Zoning Amendment, Subdivision, Development Agreement, Use Permit and Architectural and Site Plan Review. Mitigation measures and a monitoring program will be adopted for those environmental impacts identified in the report.

SECTION 3. The proposed subdivision will not result in a violation of the requirements established by the Regional Water Quality Control Board.

SECTION 4. The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of November, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏰 CERTIFICATION 🏰

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 16, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

🏰 AFFIDAVIT 🏰

We, **Darryl Browman of Browman Development Company, Inc.** and **John DiNapoli of JP DiNapoli Companies, Inc.**, applicants, hereby agree to accept and abide by the terms and conditions specified in this resolution.

GENERAL PARTNER:

Morgan Hill DBP LLC
a California limited liability company

By: JP DiNapoli Companies, Inc.
a California corporation
its

By: _____
Name: John DiNapoli
Title: V.P.

Date: _____

By: Browman Development Company, Inc.
a California corporation
its

By: _____
Name: Darryl Browman
Title: President

Date: _____

EXHIBIT " A "

STANDARD CONDITIONS

APPLICATION: Subdivision Application, SD-05-05: Cochrane - DiNapoli/Brownman

THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO THE ISSUANCE OF BUILDING AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS OTHERWISE SPECIFIED IN THE CONDITIONS. APPROVAL REQUIREMENTS ARE NOT LIMITED TO THE ITEMS LISTED BELOW AND NOT ALL OF THE STANDARD CONDITIONS ARE APPLICABLE TO THE SITE OF A SPECIFIC PLANNING APPLICATION.

THOSE CONDITIONS MARKED BY AN "X" ARE APPLICABLE TO THE PROJECT APPLICATION REFERENCED ABOVE.

COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

I. TIME LIMITS

- ☐ A. The Site and Architectural approval granted under this Resolution shall remain in effect for one year to _____, 200__. Failure to obtain building permits within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. (MHMC 18.74.250)
- ☒ B. ^{Vesting} The Tentative Subdivision/~~Parcel~~ ^{five} Map approval granted under this Resolution shall remain in effect for ~~two~~ years to _____, 2000. Failure to apply for Final Map approval with the City Engineer within this term shall result in expiration of approval unless an extension of time is granted by the Community Development Department (~~parcel map~~) Planning Commission (~~tentative map~~) prior to the expiration date. (MHMC 17.20.170; 17.24.110)
- ☐ C. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months to _____, 200__. Failure to commence the use within this term shall result in

termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date. (MHMC 18.54.070 A)

- ☐ D. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. (MHMC 18.54.090)

- ☐ E. Prior to approval and recordation of the final map, written certification from the Morgan Hill Unified School District shall be submitted to the Community Development Department which states that adequate school facilities are or will be capable of accommodating students generated by this project. Such letter of certification must have been issued by the School District within 90 days prior to the final map approval.

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II. SITE DEVELOPMENT

- ___A. Prior to on-site grading, the applicant shall enter into an agreement with the City of Morgan Hill for consultant services. The City shall retain the services of a professional arborist to evaluate the condition of any on-site specimen tree(s) affected by construction activity, and recommend appropriate written specifications which will preserve such trees during and after construction. The City shall provide copies of said written specifications to the applicant, who shall assume responsibility for implementing all recommended actions contained in that document.
- ___B. The applicant shall provide a set of Covenants, Conditions and Restrictions, Bylaws and Articles of Incorporation, for review and approval by the City Attorney prior to final occupancy or recordation of the final map. All such CC&Rs shall include the following text:
1. Common Areas/Right of Ways:
 - a. The Owners recognize that the use, modification and proper maintenance of the Common Area and public right-of-way(s)* are for the benefit of all citizens of the City of Morgan Hill (City) and that the City is an intended third party beneficiary of these covenants, conditions and restrictions and may, upon notice of hearing as set forth below, exercise the same powers of enforcement as the Association.

*Public right-of-way: Exclusive of streets dedicated to and accepted by the City of Morgan Hill
 - b. The City may, by mail or personal delivery, give written notice of the breach of any maintenance obligation to the Association with a demand that such breach be remedied. If such breach is not remedied within thirty (30) days of the mailing or delivery of such notice, the City shall have

standing and the right (but not the obligation) to bring a court action against the Association and Owners to enforce such provision. In addition, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in such action.

- c. The Notice may also contain a date for a hearing on the matter before a City employee designated by the City (which hearing shall be held no sooner than fifteen (15) days after mailing of such notice), and if after such hearing the City determines that there has been inadequate maintenance, the City shall have the right (but not the obligation) to undertake the maintenance of the Common Area or public right-of-way in question. Any and all costs incurred by the City in so maintaining the Common Area or public right-of-way shall be a lien against all the properties included with the Project and shall be the personal responsibility of the Owners and the Association
- d. The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Any changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
- e. This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
- f. For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as first recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such maintenance

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obligation or duty of maintenance is increased by such amendment.

2. Tree and Landscape Preservation: The Owners of the Units and Association shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove or alter any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.

- 3 Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner and the Association to insure that any changes or modifications to the Project or any Unit are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.

- ✓ C. Final site development plans shall be reviewed ~~and approved~~ by the Community Development Department prior to issuance of a building permit. All such plans shall include:

1. Detail depicting all concrete curbs as full formed.
2. Provision of catalogue drawings depicting the proposed parking area lighting fixtures. Exterior lighting of the building and site shall be designed so that lighting is not directed onto adjacent properties and light source is shielded from direct off-site viewing. (MHMC 18.74.370)
3. Ramps, special parking spaces, signing and other physical features for the disabled, shall be provided ~~throughout the site~~ for all publicly used facilities. (MHMC 18.50.110; 18.74.470)
4. Trash enclosures shall be constructed of a sturdy, opaque material, minimum 6 feet in height with solid view obstructing gates and shall be designed in harmony with

the architecture of the building(s). In residential areas, trash enclosure areas shall require an overhead shade structure. Trash enclosures shall be required in all commercial ~~and industrial~~ projects ~~and in residential projects containing four or more dwelling units.~~ (MHMC 18.74.505)

Subject to the PUB Guidelines,

5. All mechanical equipment, including electrical and gas meters, post indicator valve, backflow prevention devices, etc., shall be ~~architecturally~~ screened from view ~~or located interior to the building~~. All ground mounted utility appurtenances such as transformers shall ~~not~~ be ~~visible~~ from any public right-of-way ~~and shall be adequately screened through the use or combination of concrete or masonry walls~~, berming, and landscaping. (MHMC 18.74.320) For additional screening, backflow preventers shall be painted dark green, except the fire connection which shall be painted yellow.

6. All existing on-site overhead utilities shall be placed underground in an approved conduit from the service connection at the street or at the property line to the service connection at the building.

- ___ D. Recordation of a final map shall be in accordance with the number of building allotments granted through the Residential Development Control System (RDCS) for this project. Should a portion of the project's building allotment expire prior to final map approval, the number of lots on the final map shall be reduced to correspond to the remaining allotment. (MHMC 18.78.020)

- ✓ E. ~~Prior to recordation of the final map~~, the owner shall submit to the Community Development Director for his approval a management plan detailing strategies for control of noise, dust ~~and vibration~~, and storage of hazardous materials during construction of the project. The intent of this condition is to minimize construction related disturbance of residents of the nearby or adjacent properties.

screened from view

for consistency with the Conditions of Approval

as required by law

the commencement of grading operations

from public right of way

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- ☒ F. Street names, private or otherwise, used to identify building locations shall be submitted to the Planning Division for approval.

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III BUILDING DESIGN

- ___A. All roof mounted mechanical equipment shall be placed within a screened roof top enclosure depicted on the elevation drawings or located below the parapet level and shall not be visible from the ground at any distance from the building. Cross section roof drawings shall be provided at the building permit stage indicating the relative height of the screen wall or parapet. Minimum screen height or parapet depth shall be 5 ft. or greater to match the height of any proposed equipment. (MHMC 18.74.320)
- ___B. Roof top lighting is not approved for any building within the project. Any ground mounted lighting projecting onto the building or site will be subject to the review and approval of the Director of Community Development. Adjustment to the lighting intensity may be required after the commencement of the use. All parking lot lighting shall be high pressure sodium.
- ___C. All vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior. (MHMC 18.74.360)
- ___D. Soffits and other architectural elements visible from view but not detailed on the plans shall be finished in a material in harmony with the exterior of the building. (MHMC 18.74.340)

IV. PARKING & VEHICULAR ACCESS

- ___A. The interior of any parking area shall be landscaped with planter areas measuring a minimum five feet in width, minimum inside dimension. Additional planters shall be provided at both ends of a row of spaces with the planter area length equal to the adjoining parking spaces. Such planters shall contain an 18" walk adjacent to parking stall (including curb width). (MHMC 18.74.550 C)
- ___B. Textured pedestrian pathways across circulation aisles shall be provided throughout the development to connect dwellings or

commercial/industrial buildings with parking areas, open spaces and recreational uses.

- ___C. All units shall be provided with automatic garage door openers if driveway is less than 18 feet in depth from back of sidewalk.
- ___D. Prior to final map approval or issuance of a building permit, the owner shall record an appropriate deed restriction and covenant running with the land subject to review and approval by the City Attorney for reciprocal ingress/egress easements along the common driveway.

V. LANDSCAPING

- ___A. The applicant shall enter into a two-year landscape maintenance agreement effective upon acceptance of landscaping improvements and provide an appropriate bond as required by Section 18.74.560(d) of the Design Review Ordinance. Bond amount shall be based on the assigned value of \$2.50 per square foot of area of planting and irrigation improvements. (MHMC 18.74.560)
- ___B. Detailed landscape planting and irrigation working drawings shall be submitted to the Community Development Department for approval prior to issuance of building permits. Landscape plans for streets and landscape easements shall be part of the improvement plan submittal.
- ___C. Special landscape features such as mounding, field stones, specimen size trees, meandering sidewalks and landscaping, minimum _____ feet in width, shall be required along _____.
- ___D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by (the property owner/Homeowner's Association) _____ as part of the common area improvements.

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- ☐ E. All trees within approved landscape plans shall be of a minimum fifteen gallon size. All shrubs shall be minimum 5 gallon size unless otherwise approved by the Community Development Director.
- ☐ F. A soils report shall be provided with landscape plan at the building permit stage indicating agricultural suitability and soil fertility.
- ☐ G. The balance of a building site not developed as part of this project approval shall be placed in landscaping acceptable to the Planning Division.
- ☒ H. *Parcels A and B*
A note shall be placed on the final map which shall indicate that ~~lot(s)~~ *lot(s)* shall be used for no purpose other than for on-site storm drainage facilities ~~and recreational amenities. All proposed trails, private open space and associated facilities shall be permanently secured with appropriate documentation [i.e., Deeds, Easements, Covenants, Conditions and Restrictions, (CC&Rs), Dedication, Homeowners Association, etc.] unless in the future a storm drain system is developed which no longer requires the project to detain water,~~ *or any other event*
- ☐ I. The landscaping installed and accepted with this project shall be maintained on the site as per the approved plans. Any alteration or modification to the landscaping shall be permitted with the approval of the Director of Community Development. *or circumstance that eliminates the need for such drainage facilities.*

VI. SIGNS

- ☐ A. The applicants shall obtain Planning Division approval of a sign program prior to issuance of building permits. The terms of said sign program shall be included as a disclosure in all future leasing agreements affecting this parcel.
- ☐ B. The signs indicated on the plan set drawings are not approved with the subject site review application. Signs proposed for this development shall be designed in conformance with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.
- ☐ C. Directory monument sign(s) and location map(s) shall be provided for apartment, condominium, or townhouse projects

prior to occupancy. Directory signs may also be provided for any multi-tenant commercial or industrial building. Location of the sign(s) shall be interior to the project and design of the directory sign(s) shall be approved by the Planning Division and Fire Department prior to issuance of building permits.

VII. OTHER CONDITIONS

- ☐ A. It is recognized that the subject structure is proposed as speculative and the ultimate use is unknown at this time. Future commercial/industrial users of this site are subject to the City's commercial/industrial performance standards and may require use permit approval.
- ☐ B. The applicant for land use approval has received notice that the issuance of a building permit to implement such land use action may be suspended, conditioned or denied where the City Council has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of Morgan Hill or to meet discharge standards imposed by the California Regional Water Quality Control Board.
- The City of Morgan Hill currently may not have the sewage treatment capacity necessary to serve this project. Building permit issuance will not be allowed until and unless sewer capacity has been obtained for the project.

- ☐ D. Prior to development of the subject property, the applicant shall follow the recommendations of the Northwest Information Center, Sonoma State University, regarding the investigation of potentially-significant archeological resources on the site, and shall follow recommended actions for the preservation and protection of any resources discovered during such investigation before and during construction activity.

- ☒ E. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of

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this subdivision appl. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

✓ F. Submit two (2) and Council Resolution No. 05-62 signed copies of Approval Certificate/Resolution No. 05-62 to the Planning Division prior to issuance of building permits.

✓ G. Prior to City Council review of the Development Agreement, approval of the final map (or issuance of a building permit where no map is required), the property owner shall submit to the Planning Division two (2) signed notarized copies of the Development Agreement for the proposed project.

✓ H. The applicant shall be subject to compliance with the mitigation measures of the project environmental assessment.

- I.
1. After project approval the applicant shall conduct a preconstruction survey to avoid the take of individual burrowing owls. The preconstruction survey shall be conducted not more than 30 days prior to construction to assure take avoidance of burrowing owls. If owls are observed during the preconstruction survey, no impacts to the owls or their habitat will be allowed during the nesting season (February 1 to August 31).
 - a. If there are construction activities during the breeding season, and if burrowing owls are observed on, or within 250 feet of the project site during preconstruction surveys, a 250 foot protective buffer shall be established and monitored.
 - b. If preconstruction surveys are conducted during the non-breeding season and burrowing owls are observed on the site, the owls may be relocated upon approval of the CDFG once mitigation has been provided (PLNG).

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PUBLIC WORK DEPARTMENT

ENGINEERING DIVISION

XII GENERAL

- ✓ A. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications. Should the applicant propose the use of development and/or construction standards for any improvement and/or land uses, which are different than those presently set forth in the City's codes and ordinances, such alternative standards must be presented and approved by the Director of Public Works. The applicant shall cause Standard Specifications and Standard Drawings to be prepared in a format to be approved by the Director of Public Works. (MHMC 17.32.080)
- ✓ B. The applicant shall have a Final Map prepared by a registered engineer or licensed land surveyor delineating all parcels and easements created. There shall be concurrence in writing by PG & E, Telephone, Cable TV and any other affected agencies to all improvements and easements which are applicable to them. The number and locations of monuments shall be as required by the Public Works Department. (MHMC 17.20.200)
- ✓ C. The applicant shall submit as part of the improvement drawings for the project, profiles of all improvements in the subdivision and typical cross-sections of all streets and details of curbs, gutters, and sidewalks, to be accomplished to the satisfaction of the Director of Public Works prior to submittal of Final Map. (MHMC Sec 17.32.080)
- ✓ D. Obtain necessary encroachment permits from City of Morgan Hill/County of Santa Clara/ State of California/ Santa Clara Valley Water District, and provide guarantee covering off-site improvements. (MHMC 12.08.040 A)
- ___ E. Modification of existing map to show (Storm Drain System) (Pavement widths) (Curve Radius) (Existing Utilities) on _____ (MHMC 17.20.040)
- ✓ F. Enter into a Subdivision Improvement Agreement with the City of Morgan Hill to cover required improvements. (MHMC 17.32.160)
- ✓ G. Reciprocal access easements and maintenance agreements ensuring access to all parcels and joint maintenance of all common roads, drives or parking areas shall be provided by CC&R's and by deed and shall be recorded concurrent with the map, or prior to issuance of building permit where no map is involved. (MHMC 17.20.340; 17.20.350)
- ___ H. The applicant shall submit a complete traffic study of the area affected by the proposed project. This study shall be subject to review and approval by the Public Works Director prior to the issuance of any City permits. All mitigating improvements outlined in the study shall be installed by the applicant at his expense. (MHMC 17.32.090)
- ___ I. Prior to final map approval or issuance of a building permit, the applicant shall pay ½ the cost of an improved median on _____ for that portion covering the project frontage. Said cost shall be determined by the City Engineer. (MHMC 3.44.020)
- ___ J. A map for assessment district reapportionment and reassessment spread shall be prepared and submitted to the City Engineer for review, approval and City submittal to the County Assessor. Said map shall be recorded concurrent with subdivision/parcel map. (MHMC 17.20.350)
- ___ K. Pursuant to City Ordinance 982, the subject property will have reimbursement obligation to the City for lands acquired for street purposes and streets improved should those lands/street improvements abut or be included within subject property. (MHMC 12.02.120 B).
- ___ L. **IMPACT FEE INCREASE**-The City of Morgan Hill, pursuant to City Code Chapter 3.56 has established ten specific categories of impact fees to finance the cost of improvements

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required by new development. The City Council has chosen to implement certain fees, withhold implementation of certain fees, and stage the implementation of certain fees. City Code Chapter 3.56.050 provides for automatic annual (July 1) adjustment of those fees in existence utilizing the Engineering News Record Index for the preceding twelve months. Those fees which a developer elects to defer shall be subject to the fees in effect at the time of development of a lot (issuance of building permit). The City Public Works Department maintains historical records on the Engineering News Record Index. These records are available for inspection during normal business hours.

XIII. STREET IMPROVEMENTS

___A. The applicant shall cause the design and construction of all new public and private streets serving the project. The design of all new public and private streets shall be consistent with both the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be undertaken to the lines and grades and in a manner satisfactory to the Director of Public Works. All street improvements shall be constructed to the satisfaction of the Director of Public Works. The timing of the improvements will be determined by the City. (MHMC 17.32.060)

✓___B. Installation and dedication of street improvement including, but not limited to, curb and gutter, sidewalk, compaction, street paving, oiling, storm drainage facilities, sewer and water, fire protection, undergrounding of utilities and street lighting on Cochrane Rd & Mission View in conformance with City of Morgan Hill requirements. (MHMC 17.32.060)

✓___C. Dedication of a total of 60 feet from center line of public right-of-way on Cochrane Rd. (MHMC 17.28.010)

___D. Dedication of the required corner cutoff at the intersection of _____ (MHMC 17.28.010)

XIV. SANITARY SEWER SYSTEM

___A. The applicant, at his or her expense, shall have a registered civil engineer prepare a complete sewer system capacity study of the on- and off-site sewer system which will service the project (both upstream and downstream). The study shall meet the approval of the Director of Public Works. All needed improvements shall be installed by the applicant. No downstream overloading of existing sewer system will be permitted. (MHMC 17.32.090)

___B. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on _____.

Collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye branches and laterals, and separate sewer taps to each lot. These are to be installed by the developer. (MHMC 17.32.020 C)

✓___C. All existing and future sewer lines shall be tied into the City's system and existing septic systems shall be abandoned in accordance with City requirements. (MHMC 13.24.080)

XV. STORM DRAIN SYSTEM

___A. A complete storm drainage study of the proposed development must be submitted showing amount of run-off, and existing and proposed drainage structure capacities. This study shall be subject to review and approval by the Director of Public Works. All needed improvements will be made by the applicant. No overloading of the existing system will be permitted. (MHMC 17.32.090)

___B. The applicant shall cause the design and construction to be undertaken for a storm drainage collection system shown on the Tentative Map. All storm drain improvements shall be constructed to the satisfaction of the Director of Public Works. (MHMC 17.32.020 B)

___C. Collection system shall be designed to be capable of handling a year storm without local flooding. On-site detention facilities

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shall be designed to a 25-year storm capacity. Whereas, on-site retention facilities shall be designed to a 100 year storm capacity. Items of construction shall include, but not be limited to Installation of storm line extension on _____ surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals. (MHMC 17.32.080)

- ___D. Prior to final map approval the applicant shall complete the following to the satisfaction of the Santa Clara Valley Water District and Director of Public Works.
1. Storm drain calculations to determine detention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 3. Storm Water Pollution Prevention Plan.
- ✓E. Since the developed portion of this site encompasses more than 1 acre, a Storm Water Pollution Prevention Plan (SWPPP) will be required as a provision of the state's General National Pollutant Discharge Elimination System Storm Water Permit for Construction Activities. The SCVWD requests a copy of the SWPPP for their information (SCVWD).
- ___F. Current Federal Emergency Management Agency Flood Insurance Maps show the site is located in Zone X, an area subject to less than 1 foot of flooding. SCVWD recommends that the lowest floor of any building be constructed a minimum of one foot above the potential depth of flooding or two feet above existing ground level to be free from flooding (SCVWD).
- ___G. Land use for the hydrology of the PL-566 channel improvement project for this site is single family. Land use of greater intensity, as proposed, will require mitigation of the increased runoff due to development. Mitigation measures, such as a detention facility, will need to remain in place indefinitely after the PL-566 channel improvements are completed, or until a regional detention facility or additional channel improvements are constructed. Calculations for the sizing of the proposed detention facility and an analysis of the impacts in the event of a one percent flood should be provided for review of the SCVWD (SCVWD).

XVI. WATER SYSTEM

- ___A.. The applicant shall cause the design and construction to be undertaken of a domestic water system to the satisfaction of the Director of Public Works. The water system improvements shall be constructed within public easements or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City. (MHMC 17.32.090)
- ✓B. Abandonment of any existing water well shall be in conformance with Santa Clara Valley Water District Ordinance 90-1. Location and disposition to be shown on the plan. Well(s) shall be properly registered with the SCVWD and either be maintained or abandoned in accordance with District standards.
- ___C. Installation of water line extension on _____ (MHMC 3.44.010)
- ___D. Provide separate water services and meters for each lot. These are to be installed by developer. (MHMC 17.32.020 D)
- ___E. Should the City determine that additional water storage capacity is required, the applicant shall pay a share of any necessary improvement costs. The timing and amount of payment (developer's proportionate share) may be based on City-wide usage) shall be determined by the Public Works Director. (MHMC 3.44.010)

XVII. OTHER CONDITIONS

- ___A. The owner shall dedicate all necessary utility easements. Each requirement shall be determined by the Director of Public Works, and shall be accompanied by appropriate legal descriptions. (MHMC 17.28.010)
- ___B. The applicant shall cause the design and construction required to underground all electric, gas, Cable TV and communication lines within the development. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works. (MHMC 17.32.020 E.1)
- ___C. The final map on all major subdivision (5 or more lots) shall be approved by the City Council prior to issuance of a grading

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permit. For minor subdivision (4 lots or less), the final map shall be signed by the City Engineer and the Planning Commission Secretary prior to issuance of a grading permit. **(MHMC 17.20.380; 17.24.210)**

___D. Landscaping and irrigation systems serving common areas that are required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Homeowner's Association.

___E. Final landscape plans shall be submitted with and included as part of the improvement plans for the subdivision. **(MHMC 17.08.090)**

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XXIII. OTHER CONDITIONS:

- ✓ 1. Prior to issuance of the first building permit for the project, the applicant shall provide a set of Covenants, Conditions and Restrictions (CC&Rs) for review and approval by the City Attorney (a separate filing fee will be required for the City Attorney's review). (In the event Morgan Hill Retail Venture LP no longer retains controlling interest in the shopping center and an Owners Association is formed, Bylaws and Articles of Incorporation shall be prepared and submitted for review and approval by the City Attorney.) At a minimum, the CC&Rs shall contain provisions for the following (PLNG)
- a. Establishment of a property management firm to oversee the routine and comprehensive maintenance of the entire shopping center. Maintenance of the center shall include but not be limited to the following: exterior building paint, parking lot paving and striping, routine steam cleaning, litter control, landscaping, lighting, on-site security as deemed necessary by the Manager, and maintenance of the detention ponds.
 - b. Shared parking throughout the entire center. Parking spaces shall not be designated for any one particular use.
 - c. Reciprocal vehicular and pedestrian ingress-egress and utility easements at all driveways and cross vehicular and pedestrian access and utility easements throughout the Project for the benefit of each parcel.
 - d. Disclosure of the existence of the approved Cochrane Road PUD Guidelines and Uniform Sign Program.
 - e. Common Areas/Easements:
 - (i) The Owners acknowledge that the creation of easements for vehicular and pedestrian access, parking and public and private utility services is a condition to and in consideration of the City's approval of the Vesting Tentative Map. Accordingly, the City shall have the right to specifically enforce the covenants regarding those easements in the event any party to the CC&R's or their respective successors has failed to cure such party's default regarding such easements.
 - (ii) The entire Project and all of the properties located thereon shall be subject to the conditions and restrictions of all subdivision and other Project approvals by the City, with respect to the Project. Except as provided in the conditions of approval in the Development Agreement including, without limitation, the PUD Guidelines, Vesting Tentative Map conditions of approval and any other conditions of approval in Exhibit I of the Development Agreement, any exterior changes and/or modifications to the Project and/or any Unit, including but not limited to changes to the exterior of any Unit, may be subject to review and approval of the City of Morgan Hill as may be determined by review of the Project approvals by the City of Morgan Hill.
 - (iii) This section may not be amended without the prior written consent of the Director of Community Development for the City. Nothing contained in this section shall limit any other right or remedy which the City may have under its ordinances or state law.
 - (iv) For the purposes of this section, the question of whether there has been a breach of a maintenance obligation or adequate maintenance shall be determined by the provisions of the original Declaration as most recently recorded with the County Recorder for Santa Clara County and by any amendment thereto, but only to the extent that such obligation or duty of maintenance is increased by such amendment.
 - f. Tree and Landscape Preservation: The Owners shall preserve and maintain all trees and landscape on the property originally required by the approved landscape plan and shall not remove any such trees or landscape from the Property without the approval of the Director of Community Development of the City of Morgan Hill.
 - g. Compliance with the City of Morgan Hill Conditions of Approval: It shall be the responsibility of each Owner to insure that any changes or modifications to its parcel are in compliance with the original City conditions of approval of the Project, which are hereby incorporated herein as if set forth in full.

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- ✓ 2. Provide the necessary right-of-way dedication to construct Mission View Drive per attached cross sections and as required in the EIR (PW).
- ✓ 3. Provide the following street improvements across project frontage on Mission View Drive consistent with the attached Exhibit J5A or J5B including the following improvements: curb and gutter and detached sidewalk (west side of street only) paving, raised landscaped median, storm drainage facilities, water main, sewer main, undergrounding of overhead utilities, and street lighting (west side of street only), and striping as shown on the attached striping plan (PW).
- ✓ 4. Provide the right-of-way dedications substantially consistent with striping plan attached as Exhibit J-3, J-4A or J-4B, J-5A or J-5B or otherwise acceptable to the Public Works Director (PW).
- ✓ 5. Provide street improvements across project frontage on Cochrane Road substantially consistent with the attached striping plan Exhibit J-3, J-4A or J-4B or otherwise acceptable to the Public Works Director. The north side Cochrane street improvements shall include, curb and gutter, detached sidewalk, street paving, raised landscaped median, storm drainage facilities, water main, undergrounding of overhead utilities, street lighting, striping, all in substantial compliance with the plan attached as Exhibit J-3, J-4A or J-4B or otherwise approved by Public Works Director (PW).
- ✓ 6. Provide the right-of-way dedication at the NE corner of Cochrane and Mission View per the attached Exhibit in order to construct the required roadway transition as required by the EIR. The transition length shall be per the attached striping plan or as otherwise approved by Public Works Director (PW).
- ✓ 7. Provide on-site detention facilities to detain/increase run-off due to site development. The design shall conform to the Schaaf and Wheeler Study set forth in the Project EIR as well as city standards and be approved by the City and the Santa Clara Valley Water District (SCVWD).
- ✓ 8. Obtain approval from the SCVWD for proposed storm drain outfall into the SCVWD channel (PW).
- ✓ 9. Obtain approval from the SCVWD to construct proposed roadway improvements over the District's facilities in Cochrane Road (PW).

- ✓ 10. Construct the necessary water supply system to meet fire flow requirements for the project as determined by the Santa Clara County Fire Department (PW).
- ✓ 11. Provide separate domestic water services to each parcel within the proposed subdivision. Each water service shall be protected with City standard backflow devices. Sub-metering of any water service shall be permitted on each parcel provided it is adequately protected with a backflow device and approved by the Public Works Director (PW).
- ✓ 12. Provide one or more landscape water services to irrigate proposed landscaping within project and landscaping in the public right-of-way. Each landscape water service shall include a city standard backflow device (PW).
- ✓ 13. Provide separate sewer laterals to each parcel within the proposed subdivision (PW).
- ✓ 14. Relocate existing city sewer main outside the foot print of proposed building as shown on parcels 1 & 2 of the vesting tentative map received by the City on October 10, 2005 (PW).
- ✓ 15. Dedicate the necessary on-site underground utility easements to City of Morgan Hill for the maintenance and repair of all existing and proposed city utilities within the project boundaries. All easements shall be a minimum of 20 feet in width and underground utility easements shall permit all necessary at grade structures and appurtenances (PW).
- ✓ 16. Modify the traffic signal and intersection at northbound 101 and Cochrane Road per the EIR and/or as required by Caltrans (PW).
- ✓ 17. Install new traffic signals at the following intersections per the EIR: Cochrane Road and De Paul Drive, Cochrane Road and Mission View Drive. The signal at Cochrane and DePaul is to be installed as part of Phase I and the Signal at Cochrane and Mission View is to be installed before or concurrent with the extension of Mission View Drive north of Cochrane. The Phasing requirements are described in the Development Agreement (PW).
- ✓ 18. The applicant shall cause the design and construction of all new public streets adjacent to the project. The design of all new public streets shall be consistent with both the General Plan Land Use and Circulation Element as well as the Street Standard Details as contained within the Public Works Standards Details. The construction of the streets shall be consistent with the

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Page 16

J-3, J-4A or J-4B,
J-5A or J-5B

drawings in Exhibit and attached hereto or as otherwise approved by the Public Works Director. The phasing of the improvements will be as set forth in the Development Agreement (PW). (MHMC 17.32.060)

- ✓ 19. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements as more fully set forth on the attached Exhibit J-12, J-13, J-14. The collection system shall include, but not be limited to manholes with manhole frames and covers, cleanouts, wye branches and laterals-. These are to be installed by the developer in conformance with city standards (PW). (MHMC 17.32.020C)
- ✓ 20. A complete storm drainage study of the proposed development has been submitted showing the amount of run-off, and existing and proposed drainage structure capacities. All needed improvements for the detention basin and drainage facilities on the drawings attached as Exhibit J-6, J-7, dated Nov. 10, 2005, for the property will be made by the applicant. The property will retain storm water as necessary so that no overloading of the existing city storm drainage system will be permitted (PW). (MHMC 17.32.090)
- ✓ 21. The storm water collection system shall be designed to be capable of handling a 25 year storm without local flooding. On-site detention facilities shall be designed to a 25-year storm capacity. Items of construction shall include, but not be limited to Installation of storm line extensions onsite, surface and subsurface storm drain facilities, manholes with manhole frames and covers, catch basins and laterals (PW). (MHMC 17.32.080)
- ✓ 22. Prior to final map recordation the applicant shall complete the following to the satisfaction of the Santa Clara Valley Water District and Director of Public Works (PW).
1. Storm drain calculations to determine detention pond sizing and operations.
 2. Plan describing how material excavated during construction will be controlled to prevent this material from entering the storm drain system.
 3. Storm Water Pollution Prevention Plan.
- ✓ 23. The applicant shall cause the design and construction to be undertaken of a domestic water system, in substantial conformance with the utility plan attached hereto as Exhibit

J-8, J-9, J-10, J-11

✓ All such water line construction shall be in conformance with City standards. In the event that applicant subsequently requests any modification(s) to the aforementioned utility plan, such modification(s) shall be subject to the approval of the Director of Public Works. The public water system improvements shall be constructed within underground public easements (except any necessary at-grade structures and appurtenances) or street rights-of-way to the satisfaction of the Director of Public Works and dedicated to the City (PW). (MHMC 17.32.090)

- ✓ 24. Provide separate water services and meters for each legal parcel (sub-metering of any separate water service on a parcel shall be permitted provided they are adequately protected with an approved backflow prevention device as approved by the Public Works Director). These are to be installed by developer (PW). (MHMC 17.32.020 D)
- ✓ 25. The owner shall dedicate all necessary underground utility easements (underground easement shall permit any necessary at-grade structures and appurtenances). The requirement of each easement shall be determined by the Director of Public Works, and shall be accompanied by appropriate legal descriptions (PW). (MHMC 17.28.010)
- ✓ 26. The applicant shall cause the design and construction of all required electric, gas, Cable TV and communication lines within the boundaries of the development to be placed underground. Such design and construction shall be to the satisfaction of the affected utilities and the Director of Public Works (PW). (MHMC 17.32.020 E.1)
- ✓ 27. Landscaping and irrigation systems required to be installed in the public right-of-way on the perimeter of this tract area shall be continuously maintained by the Owner (PW).
- ✓ 28. Final landscape plans shall be submitted with and included as part of the improvement plans for the Project (PW). (MHMC 17.08.090)
- ✓ 29. Phasing of all above improvements shall be per the Phasing Requirements set forth in the Development Agreement (PW).

(end)

Exhibit J-1

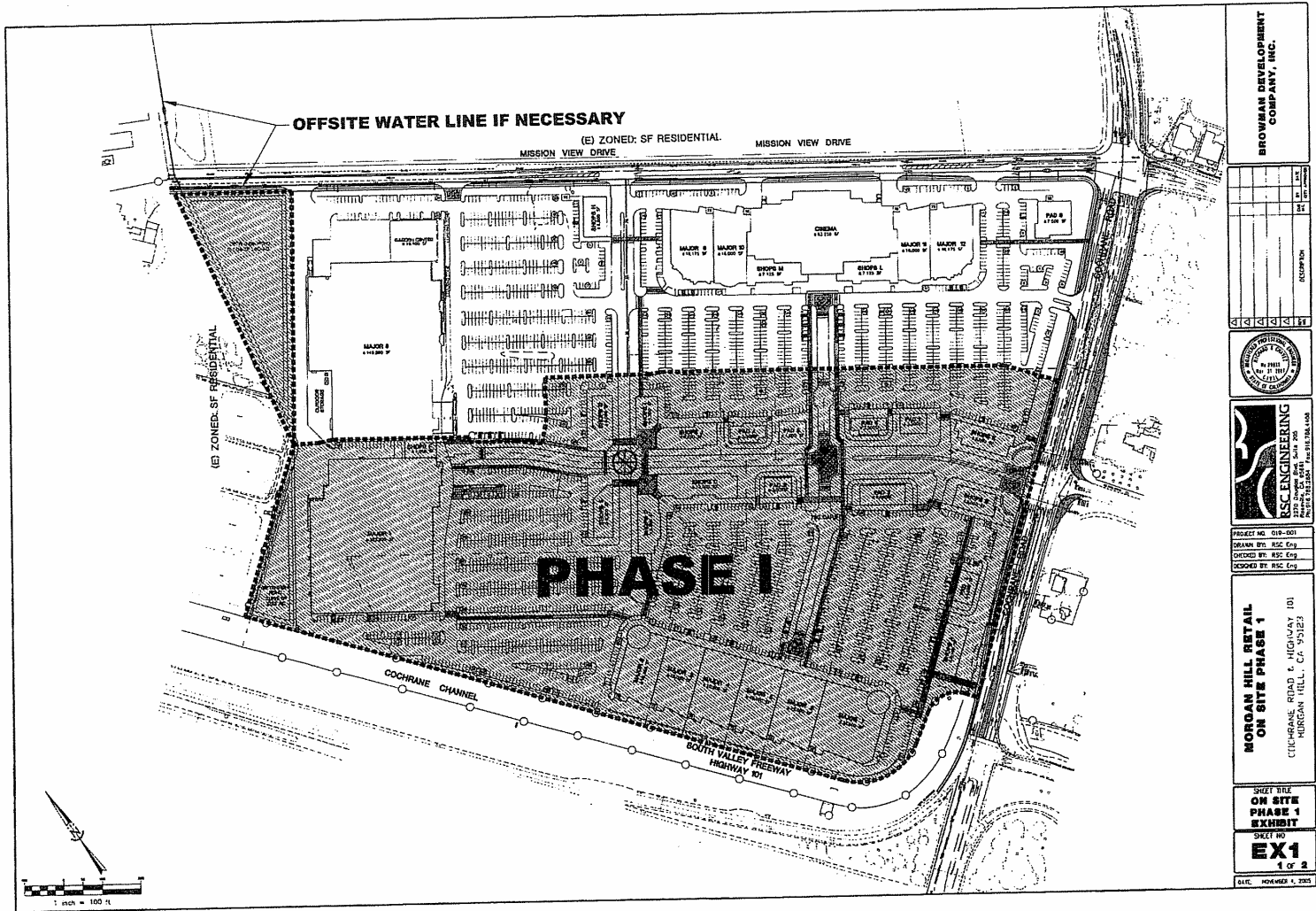
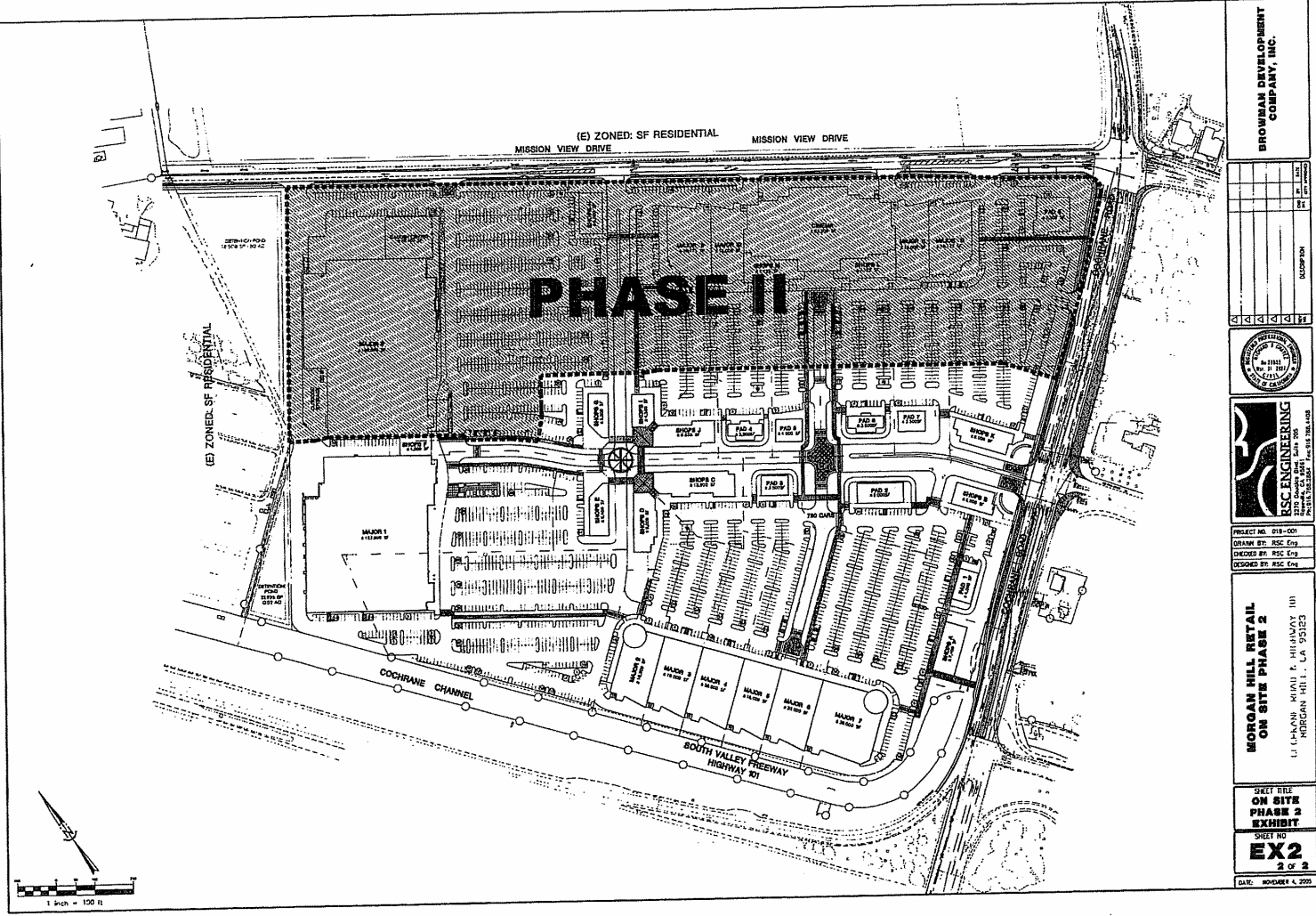


Exhibit J-2



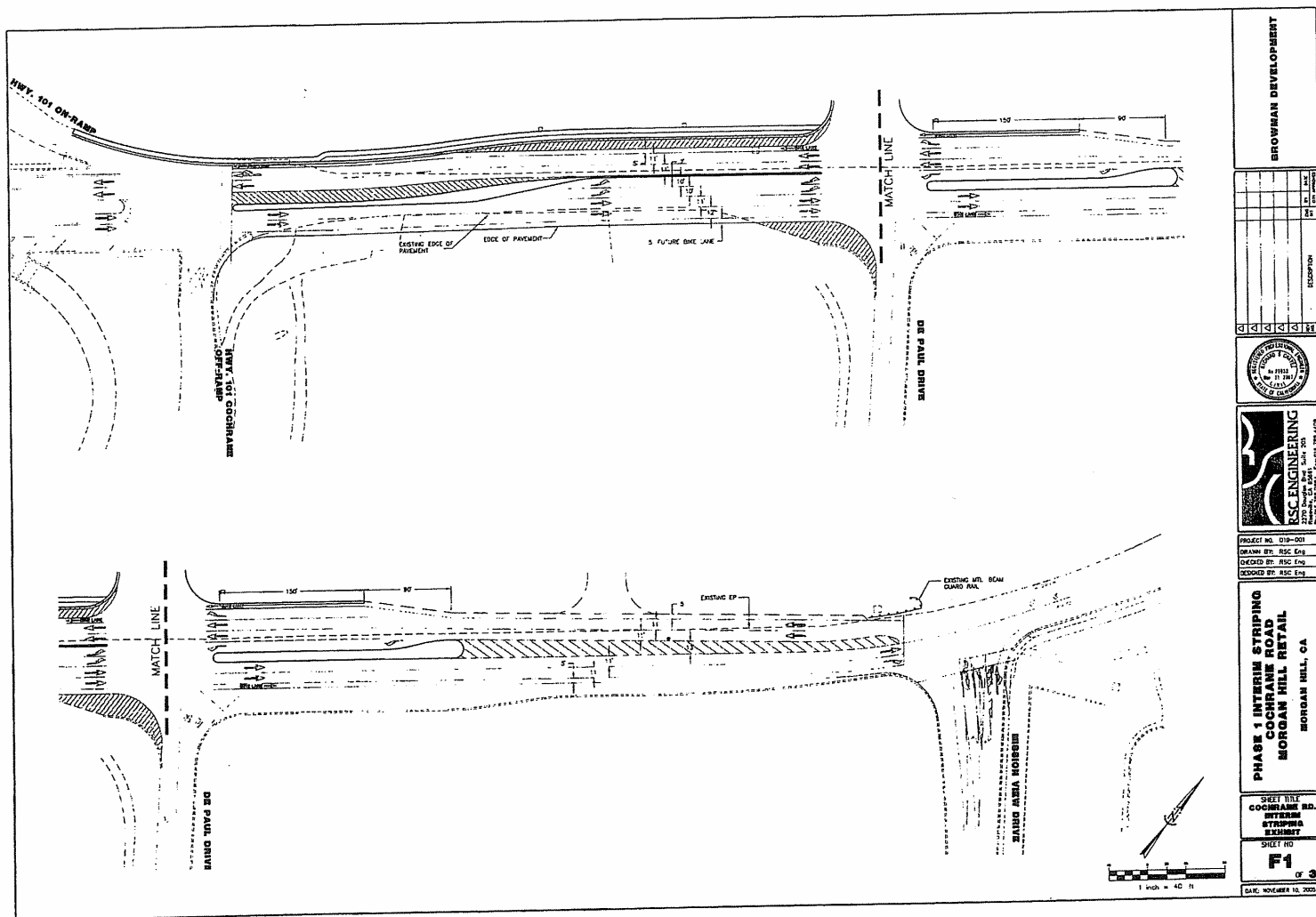
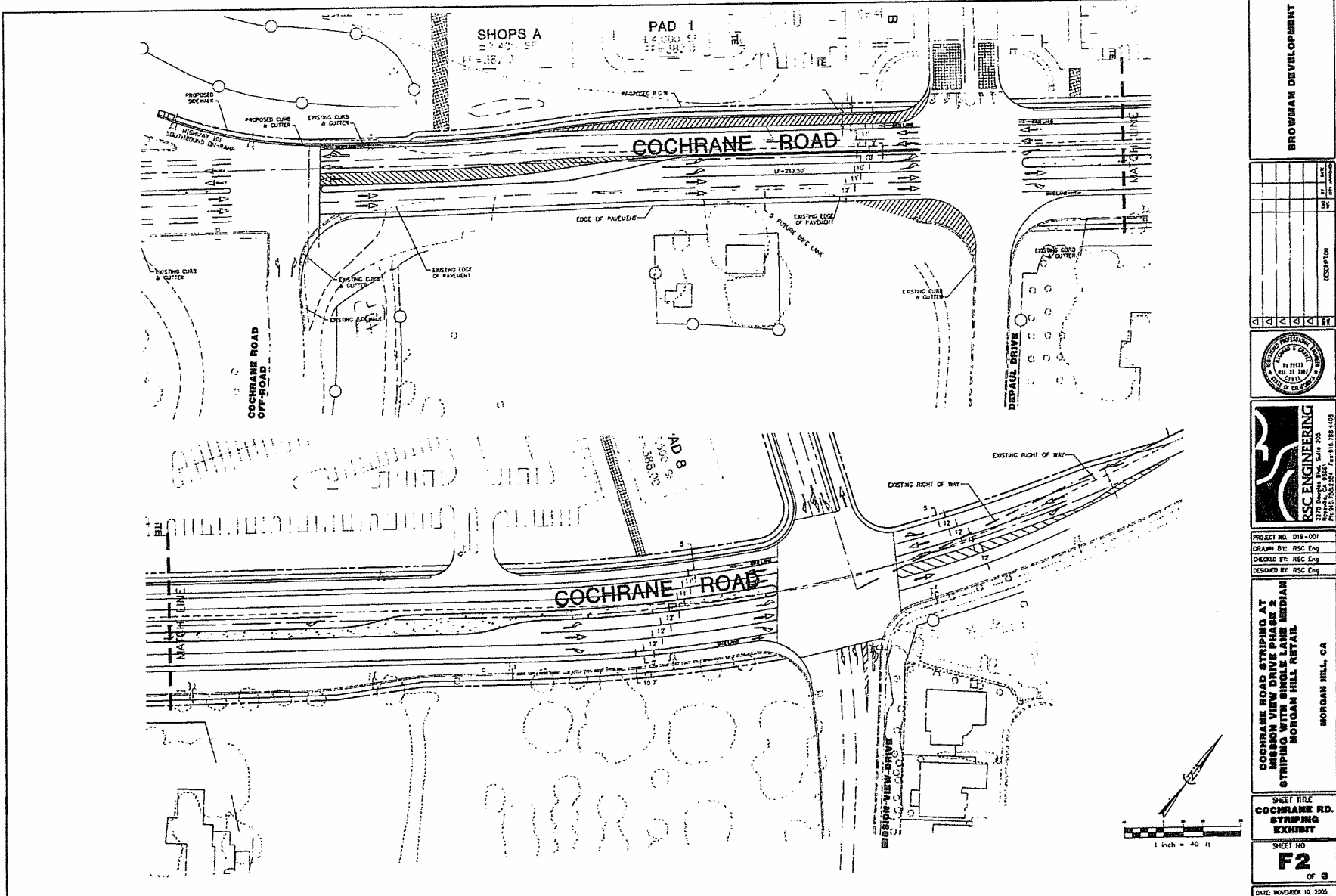


Exhibit J-4A



BROWMAN DEVELOPMENT	
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99	100
DESCRIPTION	

RSC ENGINEERING, INC.
22700 San Ramon Road, Suite 205
San Ramon, CA 94583
PH: 925.392.2070 Fax: 925.392.4020

PROJECT NO. 019-001
DRAWN BY: RSC Eng
CHECKED BY: RSC Eng
DESIGNED BY: RSC Eng

COCHRANE ROAD STRIPING AT
MISSION VIEW DRIVE PHASE 2
STRIPING WITH SINGLE LANE MEDIAN
MORGAN HILL RETAIL

MORGAN HILL, CA

SHEET TITLE
COCHRANE RD.
STRIPING
EXHIBIT

SHEET NO.
F2
OF 3

DATE: NOVEMBER 10, 2005

Exhibit J-4B

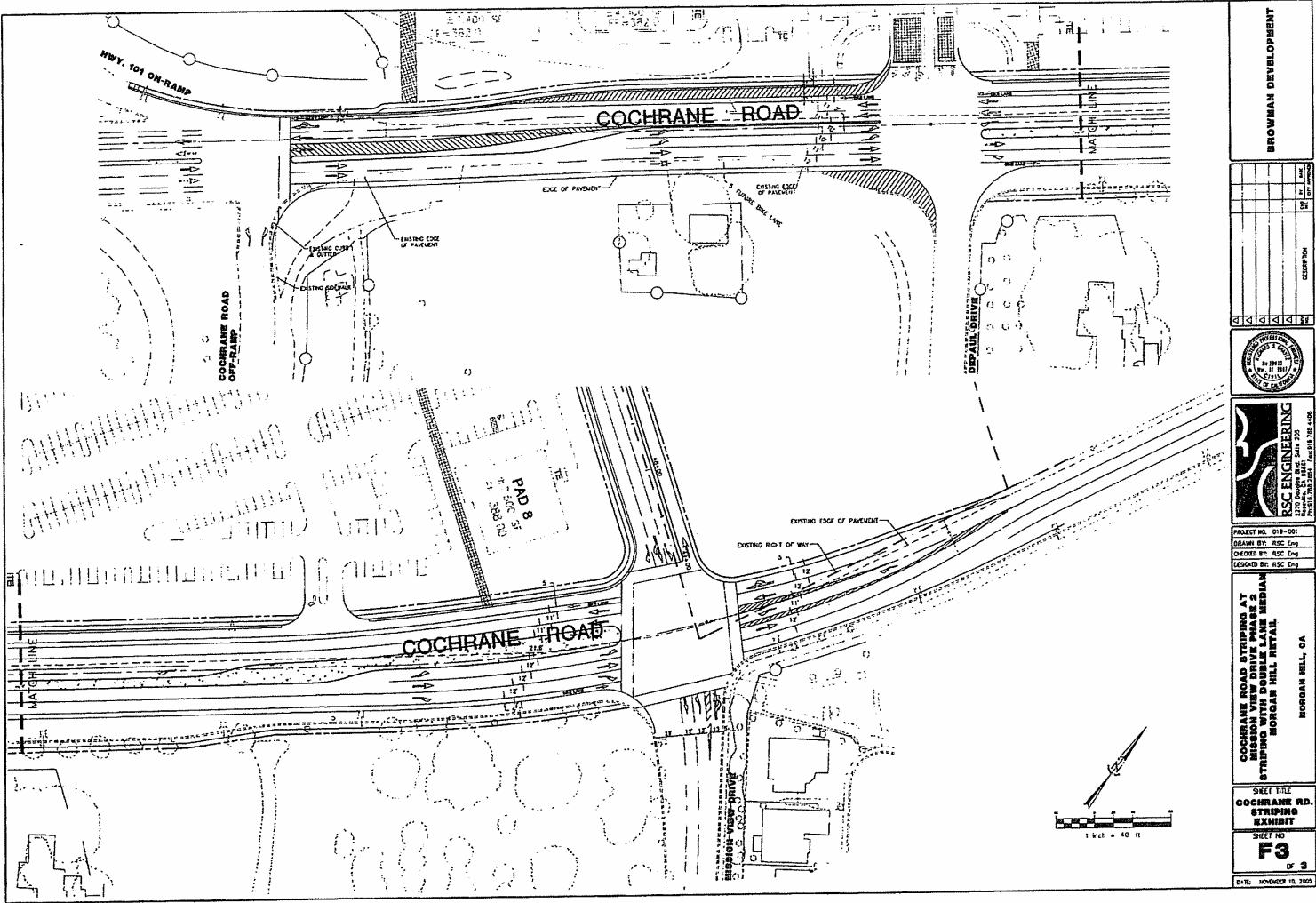


Exhibit J-5A

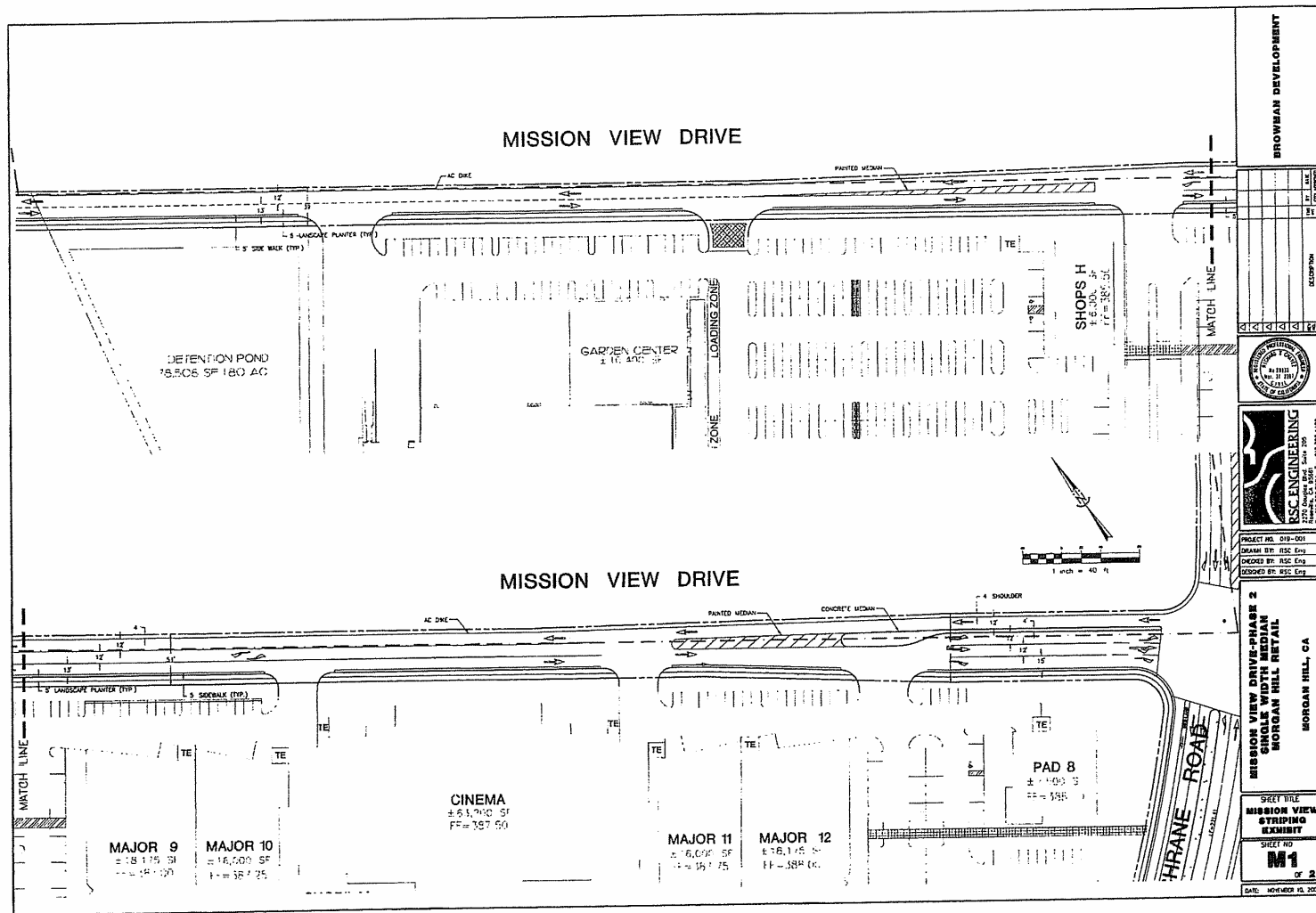


Exhibit J-5B

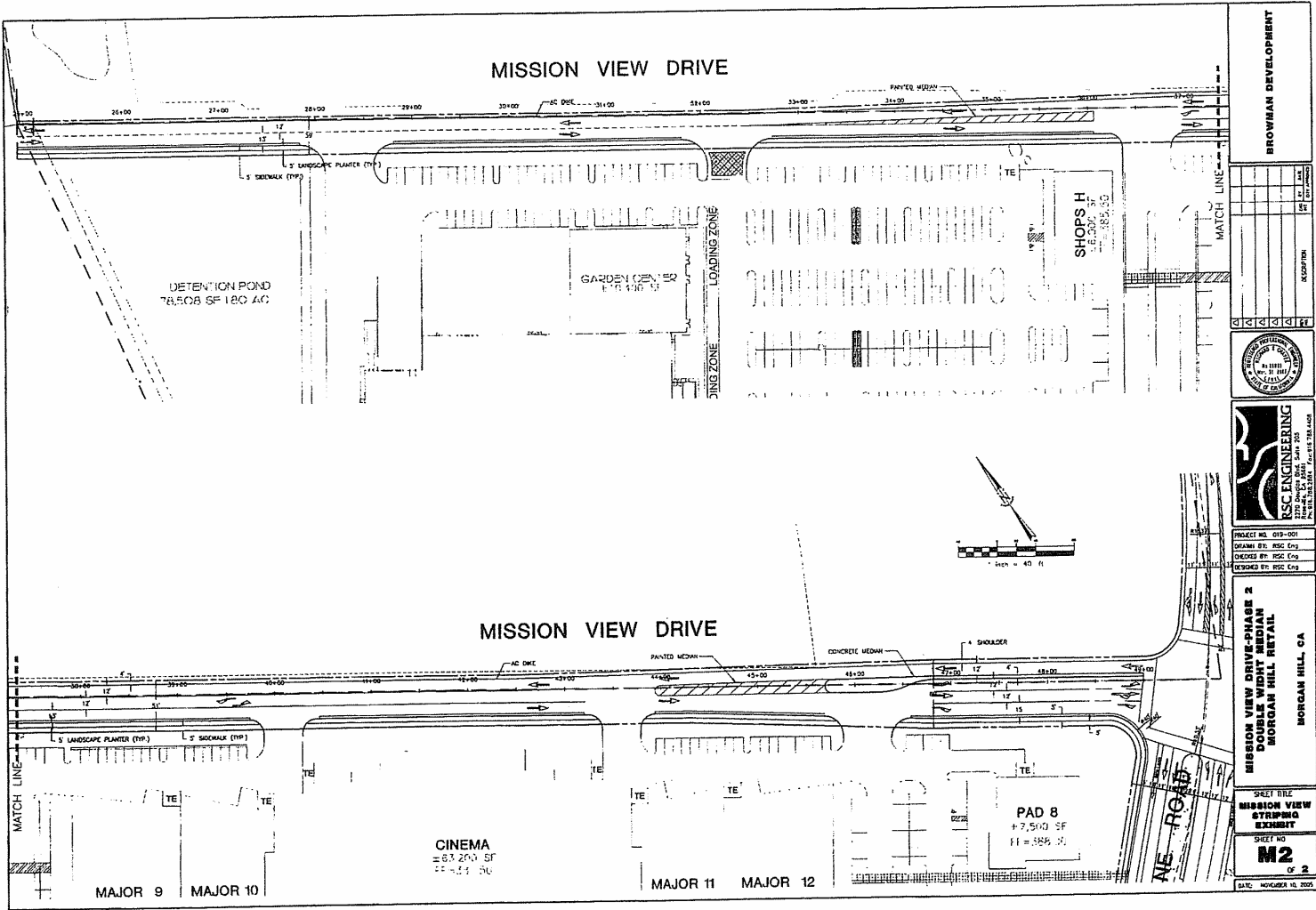


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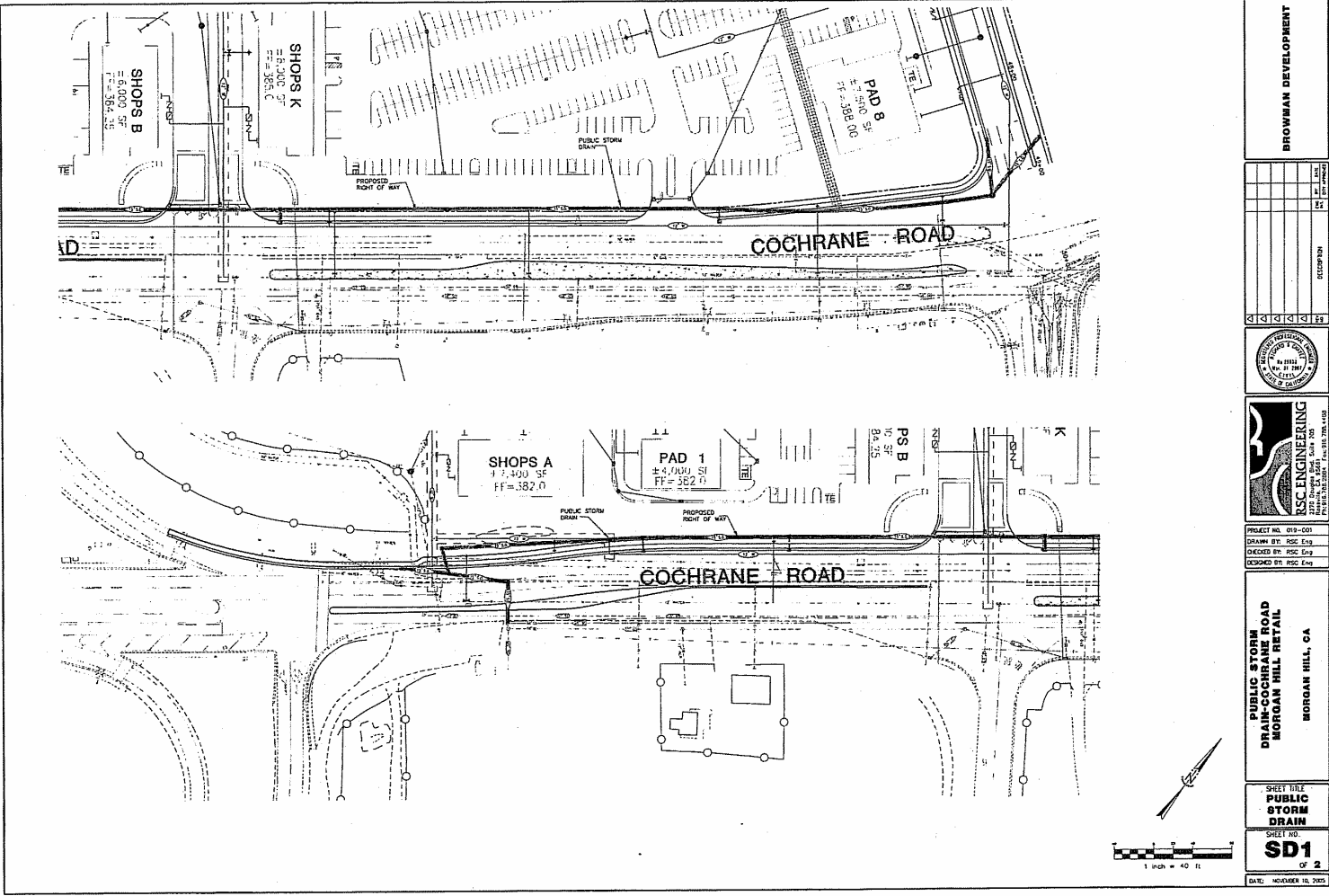
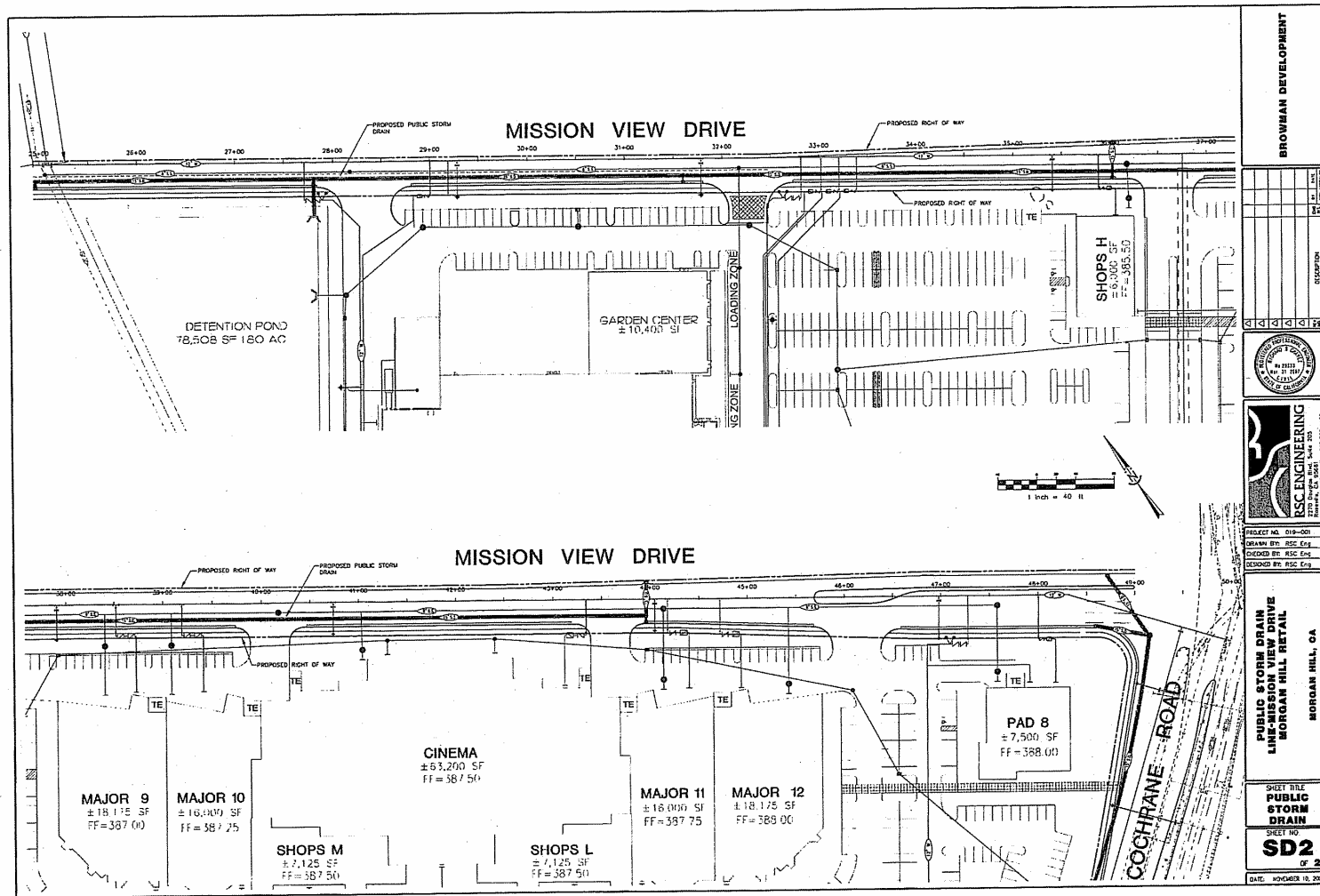


Exhibit J-7



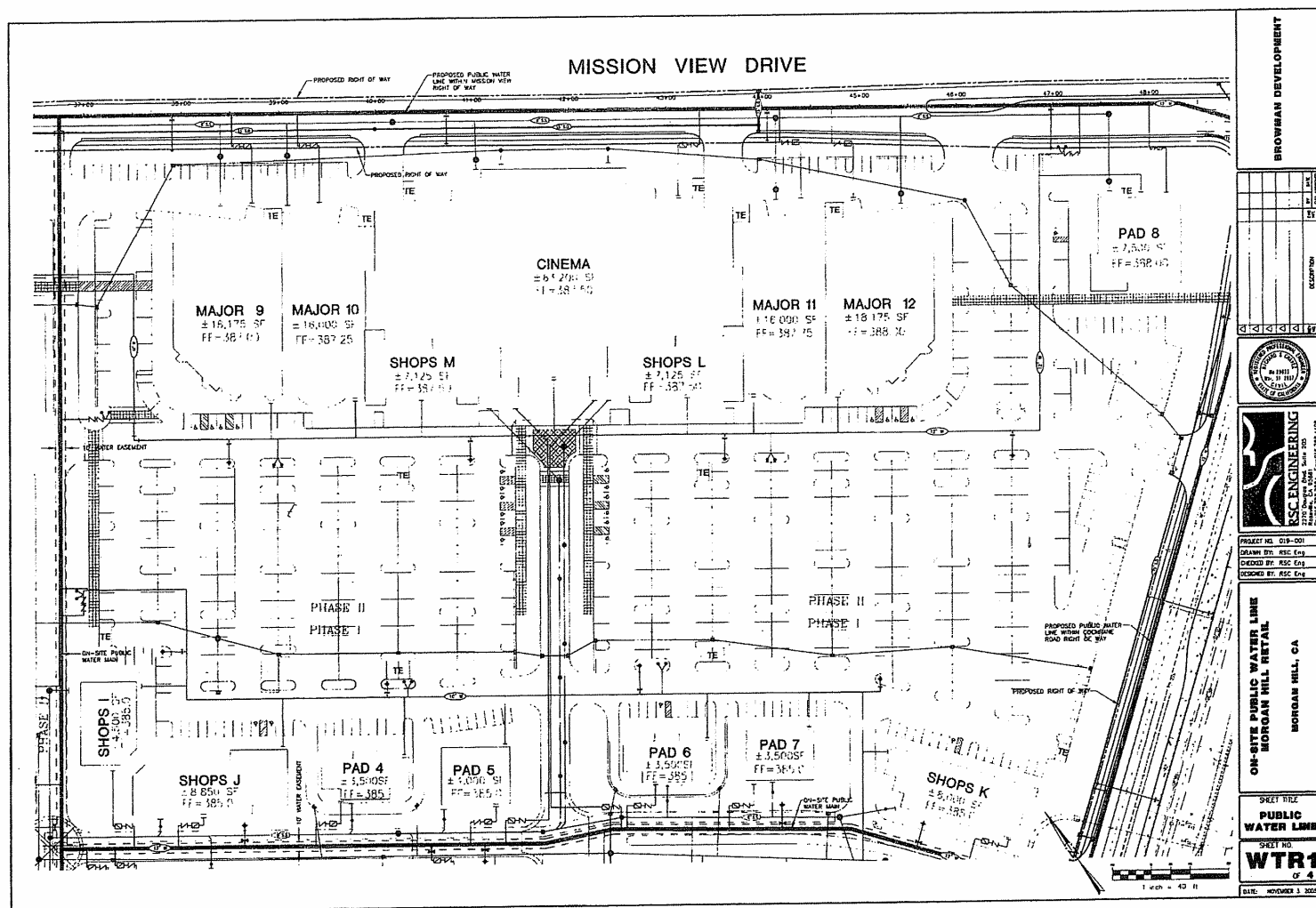
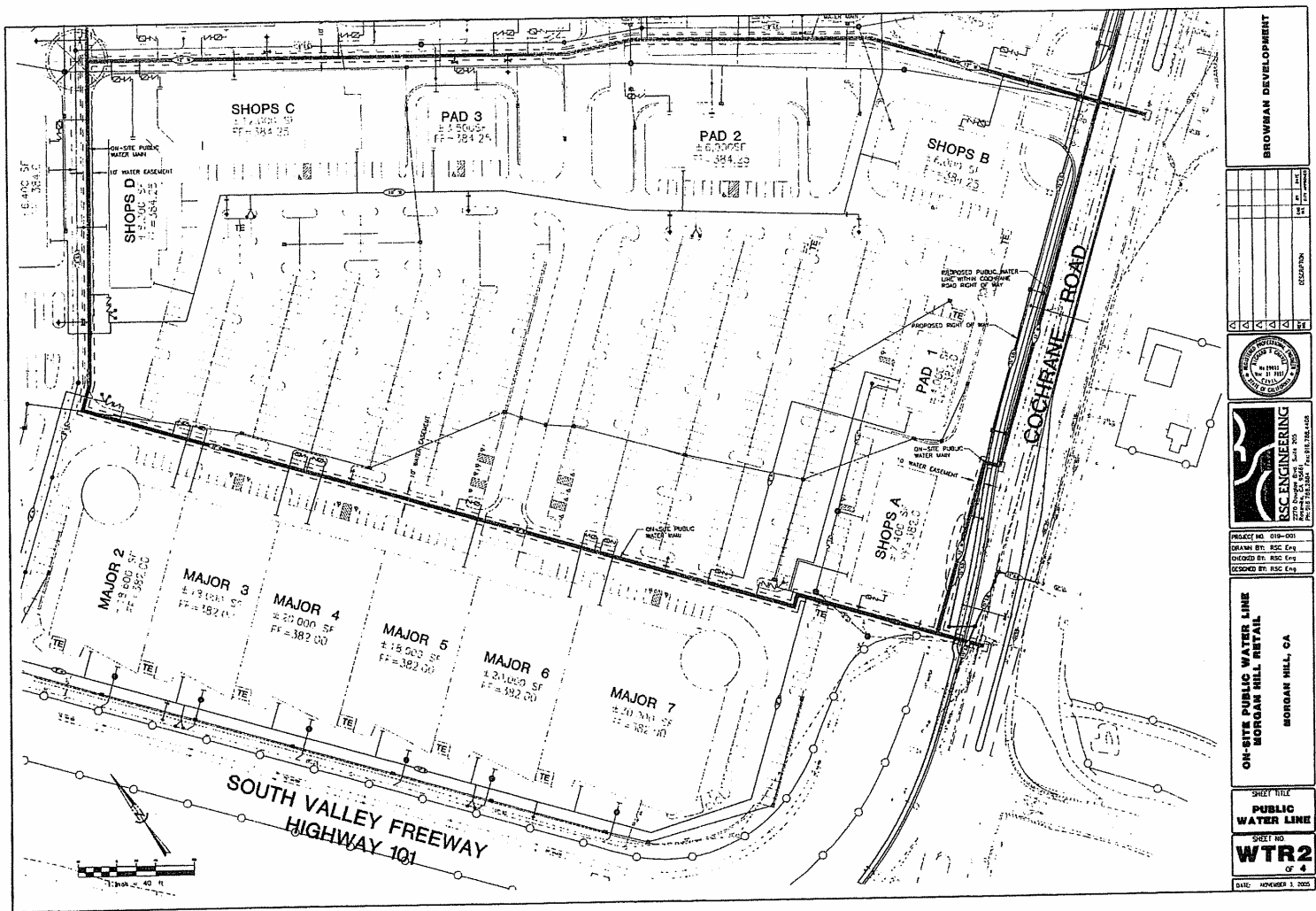


Exhibit J-9



BROWN DEVELOPMENT

NO.	DESCRIPTION	DATE
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4	REVISED	11/11/00
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6	REVISED	11/11/00
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100	REVISED	11/11/00

ON-SITE PUBLIC WATER LINE
MORGAN HILL RETAIL
MORGAN HILL, CA

PROJECT NO. 018-001
DRAWN BY: RSC Eng
CHECKED BY: RSC Eng
DESIGNED BY: RSC Eng

WTR2
DATE: NOVEMBER 1, 2000

Exhibit J-10

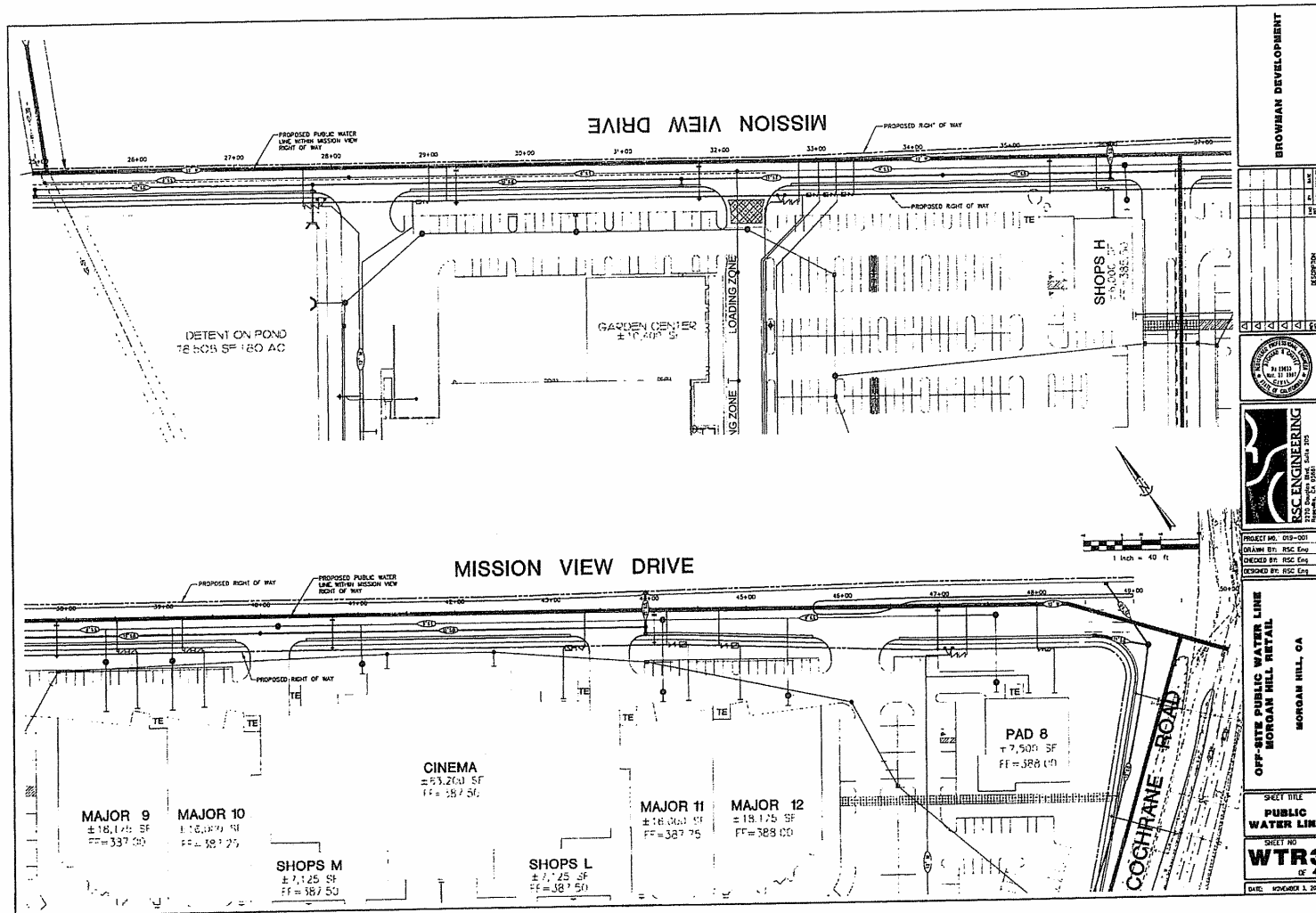
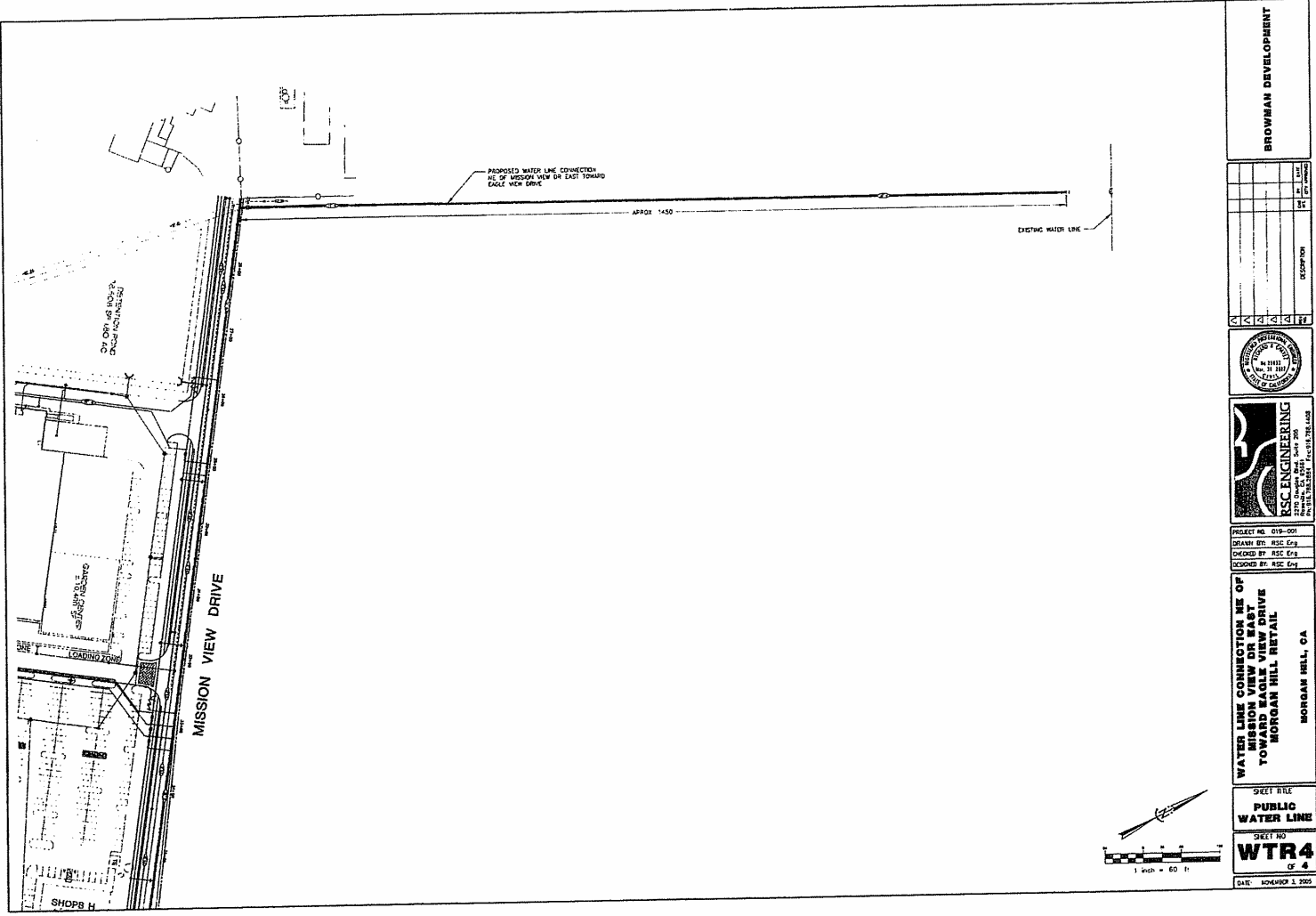


Exhibit J-11



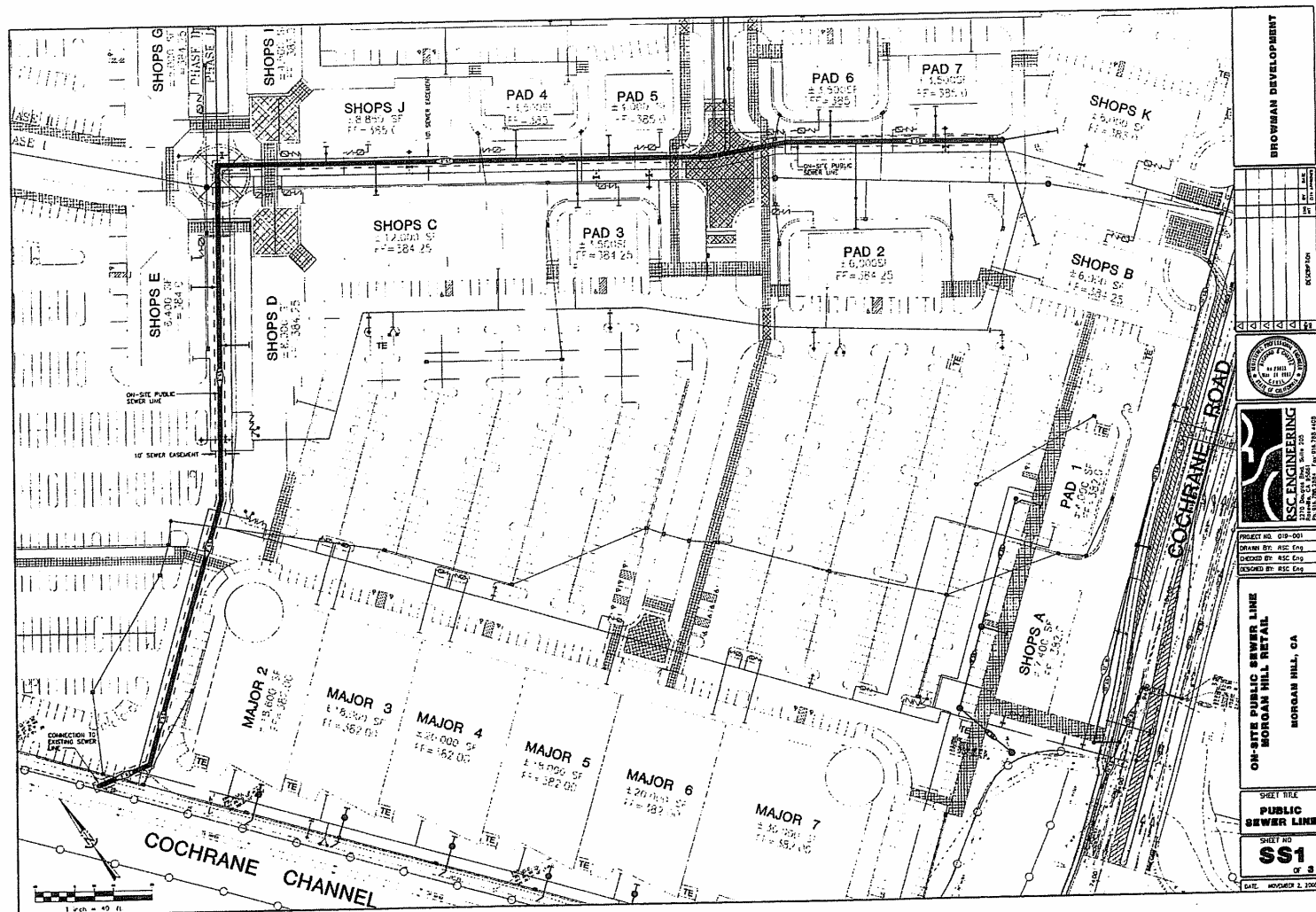


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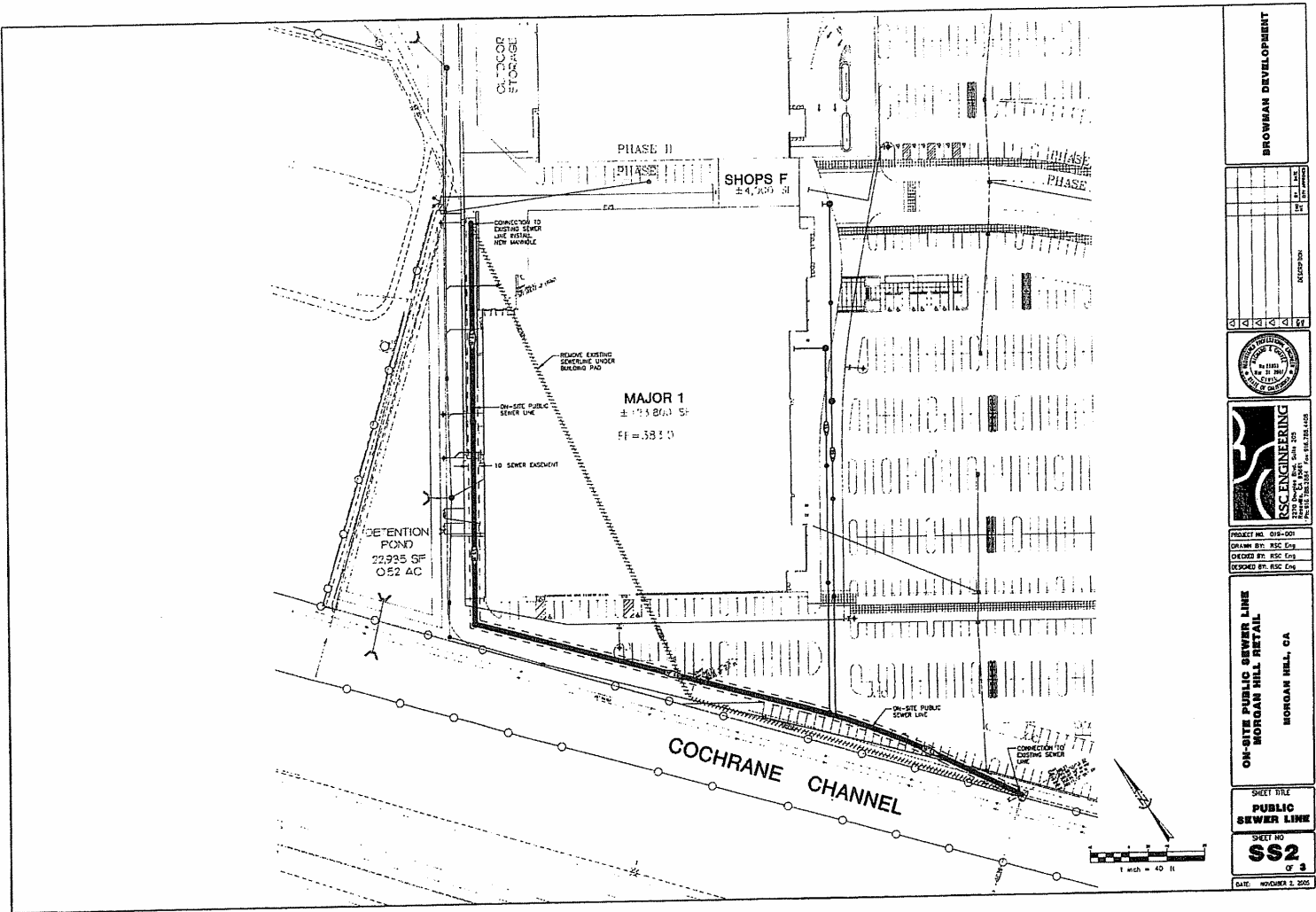


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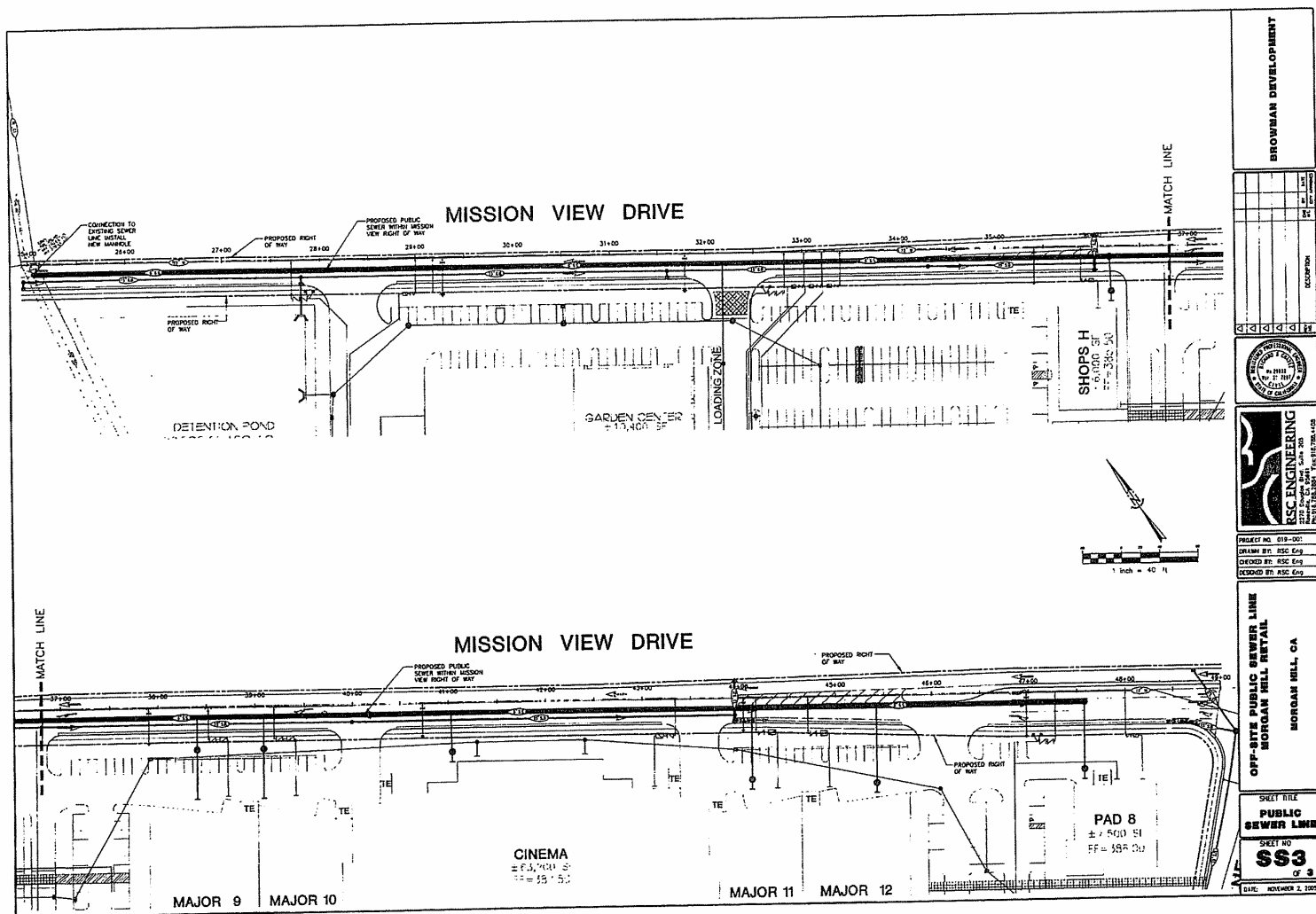


Exhibit J-15

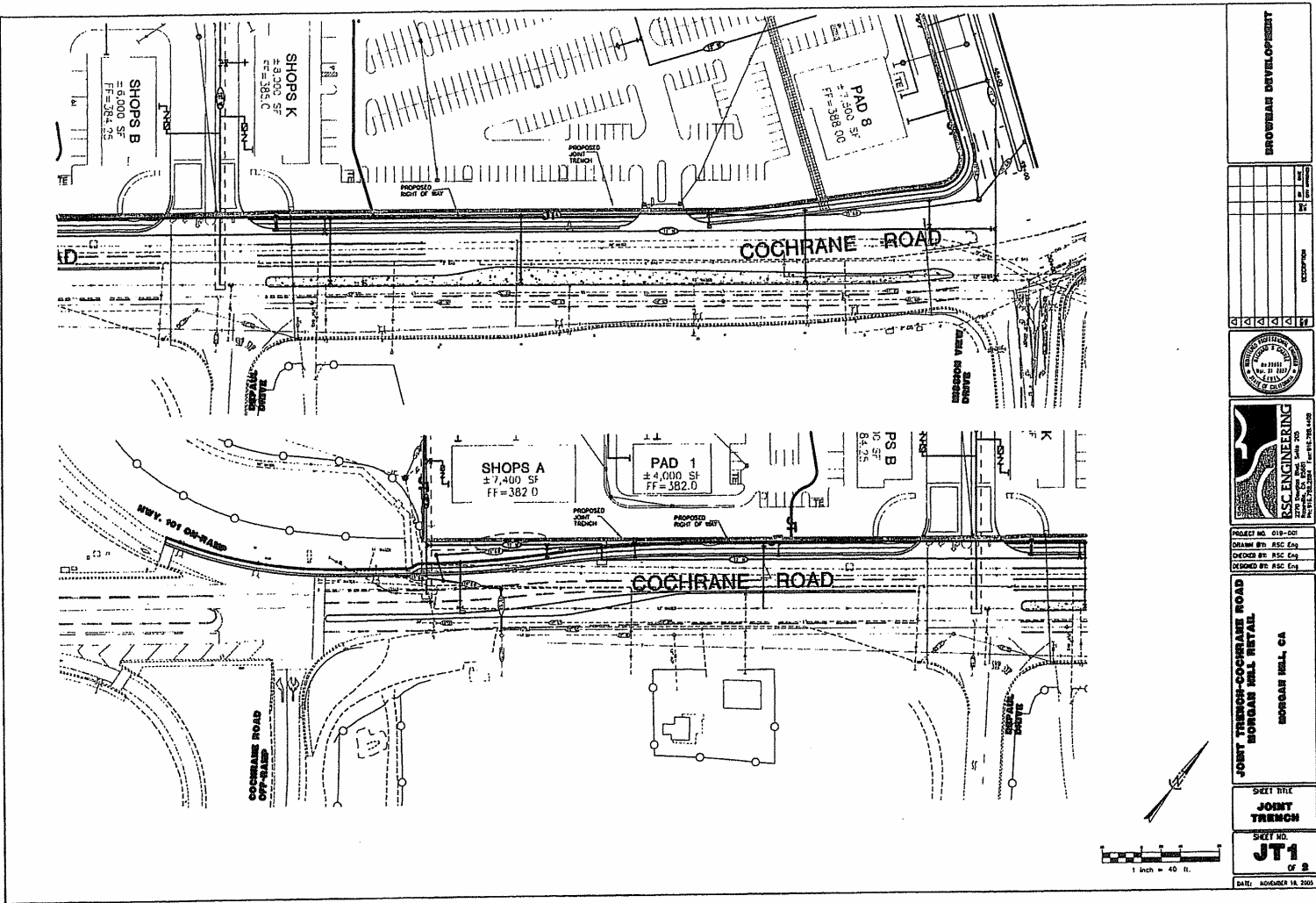


Exhibit J-16

